

Pages 1 through 4 redacted for the following reasons:

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Pages (1) - (4): Referred to the Office of the Chief of Naval Operations



DEPARTMENT OF THE NAVY  
HEADQUARTERS  
NAVAL CRIMINAL INVESTIGATIVE SERVICE  
27130 TELEGRAPH ROAD  
QUANTICO VA 22134-2233

August 12, 2011

The Honorable Howard P. "Buck" McKeon  
Chairman, Committee on Armed Services  
House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter of July 6, 2011, requesting a copy of an NCIS investigation into a Law of Armed Conflict violation alleged against a U.S. Marine Corps Special Operations unit operating in Afghanistan in March 2007. I am responding for the Secretary of the Navy.

Enclosed with this letter is a copy of the NCIS investigation. In brief summary, in March 2007 a six-vehicle convoy consisting of 30 personnel from 1<sup>st</sup> Platoon, Marine Special Operations Company F (MSOC-F) was returning to Jalalabad Air Field from a reconnaissance/intelligence operation when it was attacked by a suicide vehicle-borne improvised explosive device. Marines assigned to MSOC-F were reported to have killed and/or wounded dozens of Afghan civilians along a six-kilometer route in the Nangahar Province, Afghanistan in response to the attack.

NCIS conducted an extensive investigation into the incident; however, our forensic examination was impeded by several things: delayed arrival and limited access to the crime scene and the denial by Afghan authorities to exhume the bodies of the alleged victims. Ultimately, the NCIS investigation could neither prove nor disprove the allegations, and it was presented to U.S. Marine Corps Forces, Central Command in January 2008.

If you should need any further assistance regarding this matter please contact

(b)(6)

Communications Affairs Specialist for NCIS at

(b)(6)

or

(b)(6)

(b)(6)

Sincerely,

(b)(6)

Enclosure: Investigative File

Copy to:  
The Honorable Adam Smith  
Ranking Minority Member



DEPARTMENT OF THE NAVY  
HEADQUARTERS  
NAVAL CRIMINAL INVESTIGATIVE SERVICE  
716 SICARD STREET SE SUITE 2000  
WASHINGTON NAVY YARD DC 20388-5380

ACTION MEMO

FOR: SECRETARY OF THE NAVY

UNSECNAV

FROM: (g)(q) Director, Naval Criminal Investigative Service

(g)(q)

in 10

SUBJECT: Request for Copy of NCIS Investigation in the death of LCpl Joshua Birchfield

- Mr. Secretary, the letter at TAB A responds to Senator Carl Levin's, Chairman of the Senate Armed Services Committee, request for a copy of the NCIS investigation into the death of LCpl Joshua H. Birchfield. The investigation is currently open, pending adjudication in Afghanistan.
- DoD guidance precludes the release of case files relating to open criminal investigations. Consistent with DoD guidance, NCIS drafted a PowerPoint brief that included excerpts from NCIS witness statements and other documents relevant to the committee's concerns about contracting in overseas contingency environments. The brief was forward by OSD Legislative Affairs to committee staff members.
- A copy of the complete investigation will be provided to the committee once the case is adjudicated.

RECOMMENDATION: That SECNAV sign TAB A.

COORDINATION: TAB B

ATTACHMENTS:

As stated

Prepared By: (g)(q) NCIS Congressional Affairs Specialist, Code 00C,  
202-433-0352